

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

**Case No. A-5746**

**PETITION OF CHRISTOPHER AND LISA COKER**

(Hearing held April 4, 2002)

**OPINION OF THE BOARD**

(Effective date of Opinion, May 3, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59 Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioners propose to construct a new single-family dwelling that requires a 6.30 foot variance as it is within 33.70 feet of the front lot line. The required setback is forty (40) feet.

The subject property is Lot 24, Block D, Oakhurst Subdivision, located at 3500 Tagore Court Burtonsville, Maryland, in the R-200 Zone (Tax Account No. 02930202).

Decision of the Board: Requested variance **granted**.

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioners propose to construct a new single-family dwelling.
2. The petitioners testified that the house is 75% built and that the need for a variance was discovered during a routine wall check inspection. The petitioners testified that their lot is the result of a recent subdivision and that the shape of their lot is the most unique of the four newly subdivided lots. See, Exhibit Nos. 4(a) and 8.
3. The petitioners testified that their property is located at the intersection of Old Columbia Pike and Tagore Court and that Tagore Court curves inward at the front of the lot, significantly reducing the front yard of the property. The petitioners testified that they have spoken with the property owners in the immediate neighborhood and that they support the variance request.

**FINDINGS OF THE BOARD**

Based on the petitioners' binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The property is a uniquely shaped lot with a boundary line that curves in and out at the front of the lot. The Board finds that the exceptional shape of the lot is peculiar to the property and that the strict application of the regulations would result in unusual practical difficulties for and an undue hardship upon the property owners.

*(b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the variance requested for the construction of a new single-family residence is the minimum reasonably necessary.

*(c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The proposed construction will be for residential use and will be in harmony with the neighboring residential properties. The Board finds that the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

*(d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The Board finds that the record contains no correspondence or testimony in opposition to the variance request and that the variance will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variance of 6.30 feet from the required forty (40) foot front lot line setback for the construction of a new single-family dwelling is granted subject to the following conditions:

1. The petitioners shall be bound by all of their testimony and exhibits of record, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4(a) and 5(a) through 5(d).

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Angelo M. Caputo, seconded by Allison Ishihara Fultz, with Donna L. Barron, Louise L. Mayer and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing  
Opinion was officially entered in the  
Opinion Book of the County Board of  
Appeals this 2nd day of May, 2002

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Katherine Freeman  
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.